

HAMPTON PLANNING BOARD – MINUTES

May 5, 2004

PRESENT: Robert Viviano, Chairman
Tracy Emerick, Vice Chairman
Ken Sakurai, Clerk
Tom Gillick
Tom Higgins
Keith Lessard
Jim Workman, Selectman Member
Jennifer Kimball, Town Planner

Mr. Viviano called the meeting to order at 7:00 p.m. by introducing the Board members. Mr. Viviano then asked Mr. Gillick to lead the Pledge of Allegiance.

II. CONTINUED PUBLIC HEARINGS:

1. 389 High Street Realty Trust
Site Plan Review – 7 Unit Building and Conditional Use Request at
389 High Street
Map 180, Lot 3A-6 & 7
Waiver Requested: Site Plan Regulations Section V.E.8 (storm water drainage control plan)
Owner of Record: Four B Realty Trust, Denise M. Fournier, Trustee & 389 High Street
Realty Trust, Jerome Sakurai, Trustee
Jurisdiction accepted December 3, 2003, extended by applicant
2. 389 High Street Realty Trust
Special Permit Application associated with 7 Unit Building at
389 High Street
Map 180, Lot 3A-6 & 7
Owner of Record: Four B Realty Trust, Denise M. Fournier, Trustee & 389 High Street
Realty Trust, Jerome Sakurai, Trustee

Mr. Viviano read a letter from Mr. Ken Sakurai dated May 4, 2004 requesting continuation of the 389 High Street Realty Trust Site Applications to the June 2, 2004 Planning Board meeting. Mr. Lessard **MOTIONED** to continue the 389 High Street Realty Trust Site Plan and Special Permit applications, at the applicant's request, to the June 2, 2004 Planning Board meeting. Additionally, the Board understands that the applicant has agreed to extend the jurisdictional period as necessary. Mr. Emerick **SECONDED**. **VOTE: 5 = YES / 1 = ABSTAIN** (Mr. Sakurai). **MOTION PASSES IN THE AFFIRMATIVE.**

III. NEW PUBLIC HEARINGS:

2. Angelina Marquis & Theresa Vitagliano
Special Permit to remove existing 2-family structure & shed and construct new, 2-family
condex structure within the Wetlands Conservation District at
7 & 9 Gill Street
Map 223, Lot 32 & 35 * * this proposal includes a voluntary lot merger
Owners of Record: Same as above

Mr. Viviano read a memo from Attorney Peter Saari of Casassa & Ryan dated April 30, 2004 requesting postponement of the Angelina Marquis & Theresa Vitagliano Special Permit Application to the June 2, 2004 Planning Board meeting. Mr. Lessard **MOTIONED** to postpone the referenced application, at the applicant's request, to the June 2, 2004 Planning Board meeting. Mr. Workman **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

8. Vertical Building & Development Company, LLC
Amended Site Plan Review of project known as the "Majestic" (currently under Old Business) for 42 Unit Condominium with 2 retail stores at
Ocean Boulevard, J & K Streets
Map 293, Lot 008; Map 290, Lots 144, 145, & 146
Owners of Record: Nancy J. Higgins Revocable Trust; Five Jay Street, LLC;
Jerelyn A. Gray & Peter B. Dineen; Captain Morgan Inn, Inc.

IV. OLD BUSINESS:

1. Vertical Building & Development Company, LLC
Site Plan Review for 42 Unit Condominium with 2 retail stores at
Ocean Boulevard, J & K Streets
Map 293, Lot 008; Map 290, Lots 144, 145, & 146
Owners of Record: Nancy J. Higgins Revocable Trust; Five Jay Street, LLC;
Jerelyn A. Gray & Peter B. Dineen; Captain Morgan Inn, Inc.
Jurisdiction accepted July 30, 2003, extended by applicant

Mr. Viviano read a memo from Attorney Peter Saari of Casassa & Ryan dated May 4, 2004 requesting to continue the Vertical Building & Development Company, LLC Amended Site Plan Application to a future date recommended by the Board. Mr. Gillick **MOTIONED** to continue the Vertical Building & Development Company, LLC Amended Site Plan Application to the May 19, 2004 Planning Board meeting. Mr. Workman **SECONDED. VOTE: 4 = YES / 2 = OPPOSED** (Mr. Higgins & Mr. Lessard). **MOTION PASSES IN THE AFFIRMATIVE.** Mr. Gillick **MOTIONED** to continue the Vertical Building & Development Company, LLC Site Plan Review for 42 Unit Condominium with 2 retail stores (currently under OLD BUSINESS) to the May 19, 2004 Planning Board meeting. Mr. Emerick **SECONDED. VOTE: 5 = YES / 1 = OPPOSED** (Mr. Higgins). **MOTION PASSES IN THE AFFIRMATIVE.**

Additionally, Mr. Viviano recommended the Board consider asking the applicant to withdraw the Site Plan Review for the project known as the "Majestic" (currently under Old Business). Mr. Viviano stated this would be appropriate, as no variances have been approved to support this application. With Board consensus, a letter to the applicant will be asking for them to contact the Planning Office to discuss this further.

I. ATTENDING TO BE HEARD:

1. Foss Manufacturing
Update of conditionally approved Site Plan (February 21, 2001)
400 Lafayette Road
Map 160-15,16,22,31, Lot 175-006 & 007

Mr. Stephen Foss, President of Foss Manufacturing introduced himself. He stated that progress was increasing in the production of his continued plans for the development of his site. The Board acknowledged that the previously approved site plan would be completed over a ten-year phasing period, this year (2004) being the 3rd year of progress. The Board took note of some of the conditions that needed to be completed prior to issuance of a building permit. The Board further instructed Mr. Foss that he would need to submit an application to amend his proposal and/or the conditions of approval if he feels that some of these conditions are no longer suitable.

2. Dave Desharnais
Use Change Application from dining area (restaurant) to cigar shop (retail) at
23 Ocean Blvd. Unit #2
Map 296, Lot 65
Owner of Record: Owen Carter

Mr. Dave Desharnais introduced himself. He proceeded to explain the requested Use Change Application to change an existing restaurant (dining area) to a retail cigar shop. Mr. Gillick **MOTIONED** to approve the Use Change Application from dining area (restaurant) to cigar shop (retail) at 23 Ocean Blvd., Unit #2, Map 296, Lot 65. Mr. Emerick **SECONDED**. **VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

II. CONTINUED PUBLIC HEARINGS:

3. J.R. Russo Corporation
Site Plan Review to construct 5-unit residential condominium at
7 F Street
Map 287, Lot 40
Owner of Record: J.R. Russo Corporation
Jurisdiction accepted April 7, 2004

Attorney Peter Saari of Casassa & Ryan introduced himself as representing the applicant. Mr. Joe Russo and Mr. Ernie Cote, Surveyor were also introduced. Attorney Saari proceeded to review the changes that were made due to Department reviews and Board concerns. Mrs. Kimball acknowledged the letters from the Police Department (4/19/2004) and DPW (4/23/04); both stated they were in favor of the curb plan. DPW also requested a requirement for final review of grading.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Mrs. Kimball answered Mr. Lessards' question of the trash collection: will be curbside pick-up and the trash will be stored in the individual units until trash collection day. Mr. Gillick **MOTIONED** to approve the J.R. Russo Corporation Site Plan Review Application of plan #4-66-0210, revision #1 dated 2/18/04, subject to:

- 1) Installation of curbing along property line, adjacent to roadway (except curb cut),
- 2) Installation of curbing/bumper of parking spaces 5 & 6,
- 3) Condominium documents to address trash collection (held in unit until curb pick-up), snow removal, and storm water maintenance,
- 4) Stipulations as set forth in the Department of Public Works (DPW) memo dated April 23, 2004, including sign off by DPW on item #2 prior to final approval,
- 5) Stipulations as set forth in the Fire Department memo dated March 23, 2004,
- 6) Final plans to reflect Multi family set backs,
- 7) Final plans to reflect detailed plan (former Sheet 2) showing topography,
- 8) Submittal of certification of monumentation,
- 9) Establish surety for inspections (drainage), pavement, & monumentation,
- 10) Submittal of Public School Impact Fees and/or waiver request, and,
- 11) Submittal of final plans, mylar, and recording fees.

Mr. Lessard **SECONDED**. **VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

III. NEW PUBLIC HEARINGS:

1. Diane & Terrence Gauthier
Special Permit to remove existing garage and construct new garage (same footprint)
within the Wetlands Conservation District at
78 Island Path
Map 281, Lot 28
Owners of Record: Ruth B. Faretra & Diane Gauthier

Mr. Terrence Gauthier introduced himself. He proceeded to explain the application to remove an existing garage and construct a new garage, with the same footprint. There was brief Board discussion regarding the lot line proximity and how the new construction would enhance the property because the existing garage appears to be an unsafe structure.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Lessard **MOTIONED** to approve the referenced Special Permit Application subject to:

- 1) Notification to the Conservation Commission at start and completion of project,
- 2) Implementation of proper sedimentation and erosion control,
- 3) Submittal of New Hampshire Department of Environment Services Wetlands Bureau Permit approval, and,
- 4) Submittal of additional \$10.00 application fees.

Mr. Workman **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

3. Jack Kopka (Maplecroft Building & Development)
Subdivision Application to consolidate 3 existing lots and subdivide into 8-lot subdivision at
433 Winnacunnet Road
Map 221, Lot 5 & 10, & Map 208, Lot 46
Owners of Record: William T. Graham & Pamela M. Kopka

Mr. Erik Saari of Jones & Beach Engineers introduced himself as representing the applicant. Attorney Peter Saari of Casassa & Ryan, and Jack Kopka, Proprietor were also introduced. Mr. E. Saari proceeded to explain the Application to consolidate three existing lots and subdivide into an 8-lot subdivision. Mr. E. Saari acknowledged a drafting error showing two lots with non-conforming frontage, and showed the Board a red-lined plan correcting the error. Mr. E. Saari reviewed Mrs. Kimball memo dated May 5, 2004 in detail. Board concerns included developability of Lots 10-2 and 10-4, the existing easement on lots 10-4 and 10-3, moving the driveway location of lots 5 & 10 to the proposed road and the decorative light fixtures. Mr. P. Saari agreed to provide a copy of the existing sewer easement for the file, and noted that it may need to be amended. There was brief Board discussion on verifying the actual address of the lots. Mr. Kopka clarified that the actual property is 431 Winnacunnet Road as the number 433 does not exist, although he receives mail to the address.

The Board next discussed the uses of the existing units at #431 and #427, finding out that each is a 2-family use. Ms. Kimball noted that a 2-family use is existing non-conforming, and that the lot sizes proposed would not be compliant with the zoning ordinance. Mr. Kopka volunteered that #431 and #427 will be converted back to single family homes. Mr. Gillick recommended that all homes, including the existing, must be single family use.

OPEN PUBLIC HEARING:

Mr. Greg Thulander of 416 Winnacunnet Road introduced himself. He stated his concerns of the lot 46-1 existing grade slopes to the rear and asked for clarification on how the run off is going to be handled.

Mr. E. Saari clarified a full scale drainage analysis was completed and does not affect the lot 46-1 run off, but they will review in further detail.

SUSPEND PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Emerick **MOTIONED** to accept jurisdiction of the referenced Subdivision Application and continue it to the June 16, 2004 Planning Board meeting subject to:

- 1) Review and comment by the Conservation Commission, Police Department, Fire Department, Department of Public Works, and Highway Safety, and,
- 2) Independent review and comment by Ambit Engineering and Unitil.

Mr. Gillick **SECONDED. VOTE: AIL. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

4. Ian W. Burgess & Laura L. Malessa
Special Permit to rebuild & enlarge existing raised deck within the Wetlands Conservation District at
45 Tide Mill Road
Map 230, Lot 29
Owners of Record: Same as above

Mr. Ian Burgess introduced himself. He proceeded to explain the application to rebuild and enlarge the existing raised deck. Mrs. Kimball read the Conservation Commission memo dated April 28, 2004. There was Board discussion and clarification as to what the Conservation Commission would actually require regarding the safety of the deck versus the actual preservation of the wetlands impact.

OPEN PUBLIC HEARING: NO COMMENT – CLOSE PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Sakurai **MOTIONED** to approve the Ian W. Burgess & Laura L. Malessa Special Permit Application to rebuild & enlarge the existing raised deck within the Wetlands Conservation District at 45 Tide Mill Road, Map 230, Lot 29 subject to:

- 1) Stipulations in the Conservation Commission memo dated April 28, 2004 noting modifications to that memo as follows:

#7 = The deck remain open on all sides (*from the deck floor to the ground*) no lattice work, etc... blocking the sunlight beneath it, *and it must conform to Building Department requirements*, and,

#8 = No additional structures to be placed into the 50 foot buffer *without application and approval of subsequent Special Permit.*

Mr. Lessard **SECONDED. VOTE: Ail. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

5. Rademo Realty Trust (Thomas Moulton)
Site Plan Review to construct two story addition consisting of warehouse and office space at
5 Merrill Industrial Drive
Map 142, Lot 2
Waiver Requested: Site Plan Regs. Section V.E. 13 (architectural rendering/elevations)
Owner of Record: Same as above
6. Rademo Realty Trust
Special Permit for temporary impact to the Wetlands Conservation District for
work associated with Site Plan Review at
5 Merrill Drive
Map 142, Lot 2
Owner of Record: Same as above

Mr. Scott Frankiewicz of Beals & Associates introduced himself as representing the applicant. He proceeded to explain the application: to construct a two story addition consisting of a warehouse and office space to the existing business (that has 10,000 sf office space and 15,000 sf warehouse space). Mr. Frankiewicz noted that the proposed addition is for the DeNiro Company offices. Mr. Frankiewicz stated the total proposal will require 80 parking spaces. There was additional Board discussion regarding the ADA (handicap) parking requirements. The Board also discussed the existing easements and whether the existing parking was considered "shared" parking with the adjacent lot. There was Board consensus on the location of the loading zones, landscaping, and dumpster location. Mrs. Kimball questioned if the location of the snow storage was appropriate with respect to the landscaping. Mrs. Kimball answered Mr. Gillicks' question regarding an existing site plan on file, which she would look into that. Mr. Frankiewicz stated he did not find one on file.

OPEN PUBLIC HEARING: NO COMMENT

SUSPEND PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Hearing none, Mr. Lessard **MOTIONED** to grant the Waiver Request: Site Plan Regulations Section V.E. 13 (architectural rendering/elevations). Mr. Emerick **SECONDED. VOTE: Ail. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.** Additionally, Mr. Lessard **MOTIONED** to continue the Rademo Realty Trust Site Plan and Special Permit Applications to the June 16, 2004 Planning Board meeting subject to:

- 1) Review and comment by the Conservation Commission, Police Department, Fire Department, Department of Public Works, and Highway Safety,
- 2) Independent review and comment by Ambit Engineering, and,
- 3) Review and comment by the Building Department on documentation of ADA (handicap) compliance..

Mr. Sakurai **SECONDED. VOTE: Ail. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

7. John V. Poissant
2-Lot Subdivision Application at
3A Purington Lane
Map 120, Lot 5
Waiver Requested: Subd. Regs. Section V.E.7 (Stormwater Control Plan & Calculations)
Owner of Record: Same as Above

Mr. John Poissant introduced himself. He proceeded to explain the application to institute a 2-lot subdivision. Mrs. Kimball reviewed her memo dated May 5, 2004 and it was determined that Mr. Henry Boyd, Jr. of Parker Survey, who was not present, and would be able to address most of the comments on that memo for the applicant. There was continued Board discussion regarding clarification of the wetlands on site by an approved Soil Scientist.

OPEN PUBLIC HEARING: NO COMMENT

SUSPEND PUBLIC HEARING.

Mr. Viviano asked for additional Board comments. Mr. Lessard noted that he did not want to take action on the waiver request until it was certain that there were no wetland issues. Mr. Gillick **MOTIONED** to accept jurisdiction of the John V. Poissant, 2-Lot Subdivision Application at 3A Purington Lane, Map 120, Lot 5, and continue it to the June 16, 2004 Planning Board meeting subject to:

- 1) Review and comment by the Conservation Commission, Police Department, Fire Department, Department of Public Works and Highway Safety, and,
- 2) Verification that there are no wetlands on site (note/stamp on plans).

Mr. Lessard **SECONDED. VOTE: AII. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

V. CONSIDERATION OF MINUTES: – APRIL 21 & 28, 2004

Mr. Lessard **MOTIONED** to approve the April 21, 2004 minutes as written. Mr. Emerick **SECONDED. VOTE: AII. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. Gillick **MOTIONED** to approve the April 28, 2004 minutes as written. Mr. Workman **SECONDED. VOTE: AII. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

VI. CORRESPONDENCE:

- 1) Beach Commission:
Mrs. Kimball read a memo dated May 3, 2004 from James Workman, Chair of the Hampton Beach Area Commission. Mr. Workman clarified the intent of the memo was to inform the Planning Board that a Subcommittee of the Beach Commission is available to review any plans, proposals, and/or applications ('project') that come before the Planning Board. The Beach Commission Subcommittee would provide comments regarding that 'project' as it relates to the Hampton Beach Master Plan. Should the Planning Board care to have an individual project reviewed, it can request such a review by forwarding all necessary information to the Subcommittee through Mrs. Kimball at the Planning Office.

Mrs. Kimball suggested the Board consider this as an addition to the 'department review' process already being implemented and adding the Beach Commission Subcommittee as another option for review and comment. The Board agreed by consensus.

2) Concerned citizens memo:

Mrs. Kimball distributed a memo to the Board for review dated May 4, 2004. Mrs. Kimball briefly outlined the concerns in this memo regarding the recent Rules of Procedures and time limit discussions the Board had and the citizens were concerned their freedom of speech rights were being hindered by changing the Rules and Procedures. Mrs. Kimball also mentioned the citizens that signed this memo were abutters to the Vertical Building project and they also had concerns regarding that project.

VII. OTHER BUSINESS:

Mr. Emerick stated he would not be attending the May 19, 2004 Planning Board meeting. Mrs. Kimball will be contacting an alternate to sit in.

Mr. Higgins stated he would not be attending the June 16, 2004 Planning Board meeting. Mrs. Kimball will be contacting an alternate to sit in.

Mr. Gillick suggested the Planning Board further discuss the 'active and subsequent' verbiage issue with Town Attorney Gearreald in order to obtain additional clarification of legal ramifications, if any.

Mr. Emerick **MOTIONED** to adjourn. Mr. Higgins **SECONDED**. **VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Meeting adjourned at 9:32 p.m.

Respectfully Submitted,
Janine L. Fortini
Planning Board Secretary